IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO: 25120 of 2004

Between:

1 Mokhamatla Sanjeeva Rao S/o Veeraraghvulu
R/o Mudunuru, Pentapadu Mandal, West Godavari District.
2 Addagarla Trimurthulu S/o Ranganayakulu
R/o Mudunuru, Pentapadu Mandal, West Godavari District.
3 Tamatapu Ramabu S/o Rama Murthy,
R/o Mudunuru, Pentapadu Mandal, West Godavari District.
4 Dwarampudi Veera Venkata Reddy S/o Venkata Reddy
R/oPentapadu , Pentapadu Mandal, West Godavari District.

... PETITIONERSs

AND

1 The District Collector, Eluru, West Godavari District.
2 The Mandal Revenue Officer Pentapadu Mandal,
West Godavari District.
3 The Assistant Engineer. Irrigation Section, Pentapadu,
West Godavari District.
4 The Sarpanch, Mudunuru Gram Panchayat, Pentapadu Mandal,
West Godavari District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a writ, order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the 2nd respondent in trying to issue pattas in R.S. Nos.228, 214, 242, and 245 of Channel Poromboke in Mudunur Village of pentapadu village, West Godavari District is contrary to order 15(4) (ii) (h) of AP., Board Stading orders and direct the respondents 2 to 4 to remove the encroachments on the margins of channel in R.S Nos.,228, 214, 242 and 245 in Mudunuru Village .

Counsel for the Petitioner: MR.S.SUBBA REDDY
Counsel for the Respondents: GP FOR REVENUE

The Court, at the admission stage, made the following:

ORDER:

This writ petition is filed seeking a Mandamus declaring the action of the 2nd respondent in trying to issue pattas in R.S.Nos.228, 214, 242 and 245 of Channel Poramboke in Mudunuru Village, West Godavari District is contrary to Order 15 (4) (ii) (h) of A.P. Board Standing Orders and direct the respondents 2 to 4 to remove the encroachments on the margins of channel in the said survey numbers.

2. Heard the learned counsel for the petitioners and the learned Government pleader for Revenue appearing on behalf of the respondents and with their consent, the writ petition is being disposed of at the admission stage.

3. Petitioners 1 to 3, residents of Mudunuru Village, claim that they are the absolute owner of lands in R.S.Nos.311/2 and 311/4, R.S.Nos.205/3 and 204/2, R.S.Nos.254, 243 and 244 in an extent of Ac.2.15 cents, Ac.1.98 cents and Ac.3.02 cents respectively, while the 4th petitioner, resident of Pentapadu Village, claims that he is the absolute owner of lands in R.S.No.43 to an extent of Ac.5.40 cents. It is the case of the petitioners that some persons, at the instigation of the Sarpanch of the village, occupied the margins/bunds of the channels, called as 'karra', through which the petitioners got water. It is alleged that due to erection of huts on the margin/bunds of the channel, the farmers are not getting water to the fields and the same has been brought to the notice of the concerned authorities by way of a representation, addressed by the President, Water Users Association, in which objections have been raised for issuance of pattas in the said survey numbers, but the same has not yet been considered. It is further alleged that by ignoring order 15 (4) of the A.P. Board Standing Orders, which specifies the lands that may be assigned and the lands that may not be assigned, and without taking into consideration the objections raised by the petitioners, the second respondent is intending to assign pattas to the encroachers, which gave rise to filing the present writ petition.

4. In view of the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition with the following directions.

5. The second respondent-Mandal Revenue Officer is hereby directed to consider the objections raised by the President, Water Users Association before proceeding to issue pattas in R.S.Nos.228, 214, 242 and 245 of Channel Poramboke in Mudunuru Village of Pentapadu Village, West Godavari District. He shall ascertain the same by obtaining a report from the Irrigation Department and only then can he take a decision, in accordance with law, on issuance of pattas for the said survey numbers. Till such exercise is completed, pattas shall not be issued for the said survey numbers.

The writ petition is accordingly disposed of at the admission stage. No costs.

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N.V. RAMANA, J

December 31, 2004

Copy to:

1 The District Collector, Eluru, West Godavari District.
2 The Mandal Revenue Officer Pentapadu Mandal,
West Godavari District.
3 The Assistant Engineer. Irrigation Section, Pentapadu,
West Godavari District.
4 The Sarpanch, Mudunuru Gram Panchayat, Pentapadu Mandal,
West Godavari District.

5. Two C.Cs to G.P.for Revenue, High Court of A.p., Hyderabad (OUT)

6. Two C.D.copies.